

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MARANDA LYNN ODONNELL, et al.

Plaintiffs,

V.

HARRIS COUNTY, TEXAS, et al.

Defendants.

Case No. 16-cv-01414
(Consolidated Class Action)
The Honorable Lee H. Rosenthal
U.S. District Judge

Declaration of Craig Smyser
In Support of Plaintiffs' Attorney's Fees and Costs

I, Craig Smyser, declare as follows:

1. I submit this declaration in support of Plaintiffs' request for attorney's fees in the parties' Joint Motion for Preliminary Approval of Proposed Consent Decree and Settlement Agreement and Approval of Class Notice. I have been asked to provide an opinion as to the reasonableness of the hourly rates charged by certain counsel for the Plaintiffs in this litigation.

2. I received my J.D. from the University of Texas School of Law in 1980, where I was on the *Texas Law Review* and I served as Chair of the Board of Advocates. After graduation, I took a job at Vinson & Elkins L.L.P. in Houston, Texas, where I was elected partner in 1988. I remained at Vinson & Elkins until

1995, when I co-founded Smyser Kaplan & Veselka, L.L.P., at which I continue to practice today.

3. I have extensive experience litigating complex civil lawsuits, particularly in the Houston, Texas, market. I have tried more than fifty cases to verdict, and I have arbitrated dozens more. I have served as lead counsel in some of Houston's highest profile civil cases. I have also participated in public interest litigation, argued in the United States Supreme Court on behalf of an indigent defendant, and have appeared as an attorney's fee expert in other public interest litigation matters.

4. I am a member of the American Law Institute and the International Society of Barristers, and I have been designated as a Super Lawyer every year since 2003, making the list of Top 100 Houston Super Lawyers 2007 through 2014 and the Top 100 in Texas in 2008. I have also served as the President of the Houston Chapter of the American Board of Trial Advocates as well as President of the Texas Association of Civil Trial and Appellate Specialists. In 2012, I was appointed to the Attorney Admissions Committee for the United States District Court for the Southern District of Texas, and I was reappointed for a second 3-year term to serve as chair in 2015. In 2019, the Court extended my term as chair for an additional year.

5. I have authored numerous articles on contracts and commercial litigation and co-authored a text book on Texas Contract Law with Professor David Dow.

6. Based on this experience, I am familiar with the customary and reasonable hourly rates for litigation work in the Houston, Texas, market.

7. Attached as Exhibit A to this declaration is a spreadsheet detailing the hours incurred and hourly rates from two non-profit legal services organizations (Civil Rights Corps and the Texas Fair Defense Project) and one law firm (WilmerHale) involved in this litigation. I understand that Susman Godfrey L.L.P. has declined an award of attorney's fee in this matter, so I have not reviewed its hours and hourly rates.

8. For purposes of this declaration, I have assumed the data in Exhibit A is accurate. I have not independently reviewed timesheets to confirm the number of hours billed to this matter. Nor have I independently confirmed that the hourly rates set forth in Exhibit A are, in fact, the hourly rates associated with each listed timekeeper.

9. My understanding, based on conversations with counsel for Plaintiffs and for the County as well as on my review of publicly available material concerning the case, is that this was a particularly complex and sometimes contentious case. I am informed that it raised novel and difficult constitutional questions, required a substantial evidentiary trial for the preliminary injunction hearing in which both fact and expert testimony were taken, and involved multiple appeals to the Fifth Circuit. All these tasks required skill, judgment, and advanced advocacy. The

matter was one of high importance to the civic life of Houston and Harris County. The likelihood of success was uncertain, but the results obtained are far reaching and meaningful. Plaintiffs had to navigate among multiple defendants with different agendas and approaches to the litigation, and they spent months negotiating a settlement acceptable to all stakeholders. I am also informed that certain of the defendants in the litigation retained prominent private law firms to defend them, the bill for which ultimately exceeded \$9 million.

10. In light of these facts, in my opinion the hourly rates charged by Plaintiffs' counsel for their legal services as set forth in Exhibit A are reasonable for litigation of this type. The hourly rates charged by Plaintiffs for the different levels of lawyers and paralegals are within the normal range of hourly fees charged by civil trial lawyers in Harris County prosecuting cases similar to this.

11. Between the two non-profit legal service organizations representing the Plaintiffs, Civil Rights Corps and the Texas Fair Defense Project, the two attorneys with both the highest hourly rates and the most hours billed were Alec Karakatsanis and Elizabeth Rossi. Mr. Karakatsanis is a 2008 graduate of Harvard Law School with a decade of experience in litigating civil rights cases of this type. He is a prominent national authority on criminal defense and constitutional issues and founded Civil Rights Corps. Ms. Rossi is a 2012 graduate of Boston University School of Law and was one of the founding attorneys of Civil

Rights Corps. She has challenged bail and debtor's prison practices in Texas and Tennessee and coordinates Civil Rights Corps's bail reform litigation around the county. She has been widely published on civil rights issues. Based on their substantial, specialized experience in cases of this type, in my opinion Mr. Karakatsansis's rate of \$600/hour and Ms. Rossi's rate of \$500/hour are reasonable.

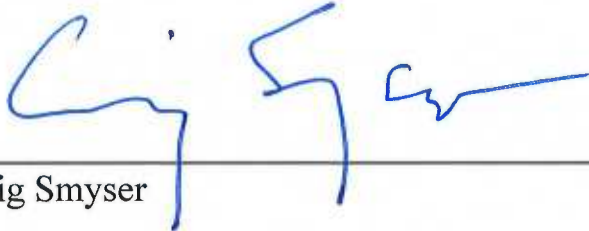
12. I similarly believe that the hourly rates for the other lawyers and non-lawyer staff at Civil Rights Corps and Texas Fair Defense Project are reasonable for litigation of this type.

13. It is my understanding that the WilmerHale lawyers provided appellate assistance to the Plaintiffs in this case. Of the three most active WilmerHale attorneys, Mr. Garg and Mr. Volchok are both former U.S. Supreme Court clerks, and Mr. Waxman is a former Solicitor General of the United States. I understand that WilmerHale has discounted its attorneys' rates to \$550/hour for this matter, and, in light of their substantial experience and considerable skill, I believe that discounted rate to be extremely reasonable for a matter of this type.

14. I have not been compensated by any party to this litigation for preparing this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of July, 2019, at Houston, Texas.



Craig Smyser

I. Attorneys Fees**

Name	Law School Grad. Year	2016 Hours	2017 Hours	2018 Hours	2019 Hours	Total Hours	Hourly Rate	Fees
<i>Civil Rights Corps</i>								
Alec Karakatsanis	2008	313.6	1340.5	610.2	367.3	2631.6	600	\$1,578,960.00
Alison Horn (Paralegal/Investigator)				51.5		51.5	240	\$12,360.00
Angelina Dirina (Paralegal/Investigator)		55.2	27.5			82.7	240	\$19,848.00
Arjun Malik (Paralegal/Investigator)				63	88.5	151.5	240	\$36,360.00
Charles Gerstein	2014	33	24	110.7		167.7	365	\$61,210.50
Clarissa Kimmey (Paralegal/Investigator)		137.2	807.2	175		1119.4	240	\$268,656.00
Elizabeth Rossi	2012	358	1528.3	826.8	295.5	3008.6	500	\$1,504,300.00
Kailyn Gaines (Paralegal/Investigator)				2		2	240	\$480.00
Lily Bou (Paralegal/Investigator)				10.3		10.3	240	\$2,472.00
Marco Lopez	2009	165.5	362.6	17.1	82.1	627.3	365	\$228,964.50
Thea Sebastian					8	8	365	\$2,920.00
SUBTOTAL								\$3,716,531.00
<i>Texas Fair Defense Project</i>								
Emily Gerrick	2014	8.9	12	5.2		26.1	225	\$5,872.50
Karly Jo Dixon	2016	32.9	53.5	20.4		106.8	225	\$24,030.00
Rebecca Bernhardt	1997	66	118.8			184.8	308	\$56,918.40
Susanne Pringle	2009	141.1	150.75	19.7	8.1	319.65	300	\$95,895.00
SUBTOTAL								\$182,715.90
<i>Wilmer Hale</i>								
Arpit Garg	2012		285.3	286.5	22.6	594.4	550	\$326,920.00
Daniel Volchok	2003		165.6	91.5	5.2	262.3	550	\$144,265.00
Seth Waxman	1977		106.4	23.7		130.1	550	\$71,555.00
Other Attorneys	Various		59.4	59.5		118.9	550	\$65,395.00
Paralegal Support			78.9	51.6	4.6	135.1	180	\$24,318.00
SUBTOTAL								\$632,453.00
TOTAL FEES								\$4,531,699.90

II. Litigation Expenses

	Expenses
Civil Rights Corps	\$114,832.54
Susman Godfrey	\$30,214.86
Texas Fair Defense Project	\$5,378.00
TOTAL EXPENSES	\$150,425.40
TOTAL FEES & EXPENSES	\$4,682,125.30

*CRC anticipates putting in significant uncompensated time implementing and monitoring the injunction.

**CRC saved the County significant expenses by using hundreds of hours of expert analysis pro bono.